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In re Application of :
Hidemitsu Nihida et al :
Serial No.: 10/026,606 : PETITION DECISION
Filed: December 27, 2001 :
Attorney Docket No.: 1110-0306 :

This is in response to the petition under 37 CFR 1.144, filed August 17, 2004, requesting withdrawal of an improper restriction requirement.

BACKGROUND

A review of the file history shows that this application was filed under 35 U.S.C. 111 on December 27, 2001, and contained claims 1-18. In a first Office action, mailed September 12, 2003, the examiner set forth a restriction requirement

Applicants replied on October 14, 2003, electing Group II and traversing the requirement. The examiner mailed a non-Final Office action to applicants on March 17, 2004, and applicants replied on August 17, 2004. This petition was also filed August 17, 2004, but was not entered in the application tracking system and was not forwarded properly for consideration until recently.

On September 14, 2004, the examiner mailed a Notice of allowance and Issue Fee due and a Notice of Allowability to applicants setting a three month statutory period for payment of the Issue Fee. The Issue Fee was paid on December 14, 2004 and the application issued as a patent on February 22, 2005.

DISCUSSION

Inasmuch as the application has issued as a patent the petition is moot and must be dismissed..

DECISION

The petition is **DISMISSED** as moot.

Should there be any questions about this decision please contact William R. Dixon, Jr., by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile sent to the general Office facsimile number, 571-273-8300.

A handwritten signature in cursive script, reading "George C. Elliott". The signature is written in dark ink and is positioned above the printed name and title.

George C. Elliott.
Director, Technology Center 1600